

281—41.1002(256B,34CFR300) Special education preappeal conference.

41.1002(1) *Procedures.* The parent, the LEA or the AEA may request a special education preappeal conference on any decision relating to the identification, evaluation, educational placement, or the provision of FAPE. The preappeal conference shall comply with the requirements of rule 41.506(256B,34CFR300).

a. A request for a special education preappeal conference shall be made in the form of a letter which identifies the student, LEA and AEA, sets forth the facts, the issues of concern, or the reasons for the conference. The letter shall be mailed to the department.

b. Within five business days of receipt of the request for the conference, the department shall contact all pertinent parties to determine whether participation is desired. A checklist shall be sent by the department to the LEA or AEA to receive information about the student.

c. A preappeal conference will be scheduled and held at a time and place reasonably convenient to all parties involved. Written notice will be sent to all parties by the department.

d. The LEA or the AEA shall submit the special education preappeal checklist to the department and shall provide a copy to the parent within ten business days after receiving the request.

e. The student's complete school record shall be made available for review by the parent prior to the conference, if requested in writing at least ten calendar days before the preappeal.

f. The individual's complete school record shall be available to the participants at the preappeal conference.

g. A mediator provided by the department shall preside over the preappeal conference.

h. If an agreement is reached, a document meeting the requirements of 41.506(2) "f" shall be executed.

i. If agreement is not reached at the special education preappeal conference, all parties shall be informed of the procedures for filing a due process complaint.

41.1002(2) *Placement during proceedings.* Pursuant to rule 41.518(256B,34CFR300), unless the parties agree otherwise, the student involved in the preappeal must remain in the student's present educational placement during the pendency of the proceedings.

41.1002(3) *Withdrawals or automatic closures.* The initiating party may request a withdrawal of the preappeal prior to the conference. Automatic closure of the department file will occur if any of the following circumstances apply:

a. One of the parties refuses to participate in the voluntary process.

b. The preappeal conference is held but parties are not able to reach an agreement. There will be a ten-calendar-day waiting period after the preappeal to continue the placement as described in subrule 41.1002(2) in the event a party wishes to pursue a hearing.

c. The preappeal conference is held and parties are able to reach an agreement and the agreement does not specify a withdrawal date. If a withdrawal date is part of the agreement, an agency withdrawal will occur on the designated date.

41.1002(4) *Confidentiality of discussions.* Discussions that occur during the special education preappeal conference must be confidential, except as may be provided in Iowa Code chapter 679C, and may not be used as evidence in any subsequent due process hearings or civil proceedings; however, the parties may stipulate to agreements reached at the conference. Prior to the start of the conference, the parties and the mediator will be required to sign an Agreement to Mediate form containing this confidentiality provision.